

## **SECTION 6. D RIDER TO UNFAIR PRACTICE CHARGE**

1. The Charged Party, the El Rancho Unified School District ("District" or "Employer") is a "Public School Employer" as defined in the Educational Employment Relations Act ("EERA"). See Gov. Code § 3540.1(k).
2. The Charging Party, the El Rancho Administrators and Supervisors Association, an unaffiliated union of school administrators within the District ("ERASA"), the exclusive labor representative for all ERASA bargaining unit employees within this District. See Gov. Code § 3540.1(e).

### **INTRODUCTION & SUMMARY OF CHARGES:**

3. The District, through its Board of Education President Jose Lara and Vice President Gabriel Orosco (with the consent and assistance of Board Clerk Leanne Ibarra) took specific actions to interfere with, discriminate and retaliate against ERASA and its bargaining unit members. The District, therefore:
  - a. Forced out ERASA represented administrators, including the ERASA President, due to protected activity;
  - b. Discouraged and coerced ERASA bargaining unit members, as well as discouraged them from exercising rights and acting collectively through ERASA;
  - c. Undermined ERASA as the exclusive representative of the administrators bargaining unit;
  - d. Interfered with, discriminated, harassed and retaliated against ERASA and its members for refusing to assist in its campaign to undermine the teachers' representative, ERFT, and its members
  - e. Restricted the ability of bargaining unit members from receiving representation both by demoting the ERASA President to the classroom in retaliation for his actions as ERASA President and vindicating protected rights of ERASA members, including insisting upon lawful compliance with District policies;
  - f. Interfered with ERASA and its represented bargaining unit members' right to choose their own representatives.
4. Within the previous six months, and on a continuing basis, the District has engaged in illegal activity specifically designed to interfere with protected rights of ERASA and its bargaining unit members. As a direct result of this

interference, ERASA President Sam Genis and other bargaining unit members were fired or demoted from their administrative positions.

5. The current Board of Education members are split with the controlling faction comprised of Lara, Orosco, and Board Clerk Leanne Ibarra. Decisions are routinely made without consultation with the other Board members, Carolyn Castillo and Dr. Teresa Merino. Lara joined the Board of Education in 2013 and became President in December 2018. Orosco joined the Board in 2016 and became Vice President in December 2018. Ibarra was elected Board Clerk in December 2018. To ERASA's knowledge, the illegal actions alleged here were taken by the District without the knowledge or participation of Merino or Castillo.

THE BOARD OF EDUCATION'S GOVERNING FACTION OF LARA, OROSCO AND IBARRA FIRED, HARASSED AND ORDERED DISCIPLINARY PROCESSES AGAINST NO LESS THAN SEVEN DISTRICT EMPLOYEES DUE TO PROTECTED ACTIVITIES, INCLUDING UNION REPRESENTATION

6. Not only were individuals fired due to their protected conduct under EERA (and other pertinent laws prohibiting the use of District funding and resources to interfere with protected activity) but through the illegal orders of members of its Board of Education, specifically Board President Jose Lara and Vice President Gabriel Orosco.
7. The ERASA officers and members targeted are former ERASA President (now Executive Director) Sam Genis, and former District principals David Sermenio, Hector Vasquez and Rosalio Medrano.
8. The El Rancho Federation of Teachers ("ERFT") officer and members specifically targeted include Todd Zola, Pedro Canizales, and Natalie Valdiviez.
9. ERASA represented District administrators were forced to violate the protected rights of subordinates, prohibit protected activities on their school sites, and were threatened, intimidated and, in four instances, terminated from employment.
10. Board President Lara and Vice President Orosco specifically required ERASA bargaining unit members to retaliate against ERFT and its members, for the purpose of undermining both employee organizations, amongst other illegal purposes.

11. Specifically, through Board President Lara and Vice President Orosco, administrators within the District were ordered and required to retaliate against members of the teachers bargaining unit (represented by the El Rancho Federation of Teachers or "ERFT").
12. The express and stated purpose of this retaliation was to cause the discipline (for fabricated reasons) and termination of certain ERFT members.
13. That the Board of Education ordered a school principal who was represented by ERASA to falsify and cause the discipline of ERFT represented teachers was unknown to ERASA or ERFT until within the last six months.
14. District's conduct, as alleged herein, is inherently destructive of bargaining unit rights and the rights of individuals within the bargaining unit to be represented by a labor organization of his, her or their choosing.
15. At least four administrators were specifically discriminated against and interfered with through termination of their employment following the specific intervention of Board President Lara and Vice President Orosco.
16. At least one administrator who was subsequently forced out of the District was ordered by the Board of Education, specifically Vice President Orosco, to discipline and terminate members of the ERFT bargaining unit.

THEN SUPERINTENDENT AGUILERA-FORT WAS DIRECTED BY BOARD PRESIDENT LARA AND VICE PRESIDENT OROSCO TO REMOVE THE ERASA PRESIDENT & OTHER ADMINISTRATORS

17. Former Superintendent Karling Aguilera-Fort specifically informed multiple individuals, including then-ERASA President Sam Genis, that he was instructed by the Board of Education to remove certain principals, and that it was not his decision as Superintendent.
18. Aguilera-Fort himself resigned within weeks of the 2019-2020 school year and was hired by Oxnard High School District.
19. Former Superintendent Aguilera-Fort also informed ERASA President Genis that all of the removed principals would receive evaluations that meet

standards. Aguilera-Fort resigned and left the District without having provided written evaluations for any administrator within the District.

#### BOARD PRESIDENT LARA USED INNUENDO AND FALSE STATEMENTS TO JUSTIFY THE BOARD OF EDUCATION'S REMOVAL OF PRINCIPALS

20. Board President Lara and Vice President Orosco repeatedly claimed that the terminations and demotions of school principals were required due to poor performance. These justifications were pretextual and designed to hide the illegal and political motives guiding Lara and Orosco's actions in further misuse of the Board of Education's governing majority.
21. Board President Lara and Vice President Orosco have repeatedly stated that the decision to relieve administrators of their positions was solely up to Aguilera-Fort. Aguilera-Fort specifically informed ERASA President Sam Genis and others that this is false. Aguilera-Fort also stated that he hoped "to be around long enough to clear his name and his actions" concerning the mistreatment of employees within the District during his tenure.
22. On May 7, 2018, Jose Lara, in his capacity as President of the El Rancho Unified School District Board of Education, was interviewed by Channel 52 Telemundo. In his interview, he gave four reasons for the decision to demote principals or release them from employment. The interview was conducted in Spanish, but the four reasons given by Lara were:
  1. The inability to move the school forward.
  2. Evaluations
  3. State goals or test scores
  4. Strategic plan
23. None of the principals that were removed were subject to negative evaluations, failing test scores or other structural infirmities. Concerning any plan or rationale for reassigning principals or removing them from employment, Superintendent Aguilera-Fort specifically stated that there was "no plan", and that he was working with his cabinet to figure out what "it looks like."
24. Before opting to remove the specific principals identified here, in 2018-2019, the District issued 23 layoff notices for the entire ERASA bargaining unit (with the exception of one newly hired individual and administrators who supervise

classified personnel), thereby threatening the entire certificated administrators' bargaining unit with imminent unemployment. These layoff notices were rescinded, and Superintendent Aguilera-Fort admitted that there was no plan or process in place to replace virtually every academic administrator in the District. The District opted to target specific individuals for removal from their administrative position, either through demotion or threat of termination.

25. When speaking to Board Member Dr. Teresa Merino on May 6, 2019, the Superintendent could not provide any rationale whatsoever for removing the individuals who were fired or demoted from their positions.

#### THE FORMER PRESIDENT OF THE BOARD OF EDUCATION ADMITS REMOVAL OF ERASA PRESIDENT GENIS BEGAN WITH RETRIBUTION FOR HIS ACTIONS AS ERASA PRESIDENT

26. Former ERUSD Board President Aurora Villon (who stepped down in December 2018) confirmed that the campaign against ERASA administrators was due to political concerns harbored by Lara and Orosco, and that the issue concerning Mr. Genis in his role as President of ERASA began with ERASA collaborating with the ERUSD teacher's union, ERFT, and the classified employee union.
27. Villon will testify that Superintendent Aguilera-Fort was instructed to watch Genis for the possibility of removing him, "keep an eye on him" with the intent of building a case to get rid of Mr. Genis. Superintendent Aguilera-Fort specifically told Villon that Orosco and Lara "were not impressed" with Genis. Their plan was to paper Genis with negative evaluations and force him out.
28. Former President of the ERUSD Board of Education Villon claims that she specifically saw Lara and Orosco harass staff members and directed three Superintendents hired during the five-year period to harass staff members at all levels.
29. Orosco, Lara and Aguilera-Fort were specifically concerned about teachers and parents from the Durfee Elementary School community speaking at Board of Education meetings, and blamed Genis (the Durfee Elementary Principal) for this occurrence. Villon specifically said that Orosco and Lara had resolved to "get rid of" Genis.

30. Villon specifically went to Superintendent Aguilera-Fort to have him address the issues of Orosco bullying Vasquez, which Superintendent Aguilera-Fort promised Villon that he would do. In fact, he never followed up.

BOARD PRESIDENT LARA AND VICE PRESIDENT OROSCO HAD ERASA PRESIDENT GENIS FIRED AS AN ADMINISTRATOR AND DEMOTED TO THE CLASSROOM DUE TO GENIS' PROTECTED ACTIVITY

31. On March 22, 2016, Lara and Orosco visited Genis' school site, Durfee Elementary School, with Lara observing, Orosco had the following exchange with Genis. This conversation concerned a letter provided to the District Board by the three unions within the District (including ERASA and ERFT):

Orosco: "I was not happy that your administrator's union supported the other two unions. Why would you do such a thing?"

Genis: "The plan was to email the letter, but ERFT and CSEA (the classified union at ERUSD) decided to read it. Since I signed the letter, I needed to support them expressing our concerns."

Orosco: "Well, you know it went public and made us look bad. You, as administrators, are supposed to support us, good or bad."

Genis: "As a union we have a right to express our concerns."

Orosco: "That was not good what you did. We expect you to support us as administrators."

32. At that time, Lara was Vice President of the Board of Education, while Orosco was a Board of Education Member. The issue that Orosco was concerned about had to do with the ERASA, ERFT and CSEA officers (and their members) addressing the Board of Education on behalf of their unions. Following this exchange, a pattern of retaliation began against Genis and others within ERASA.

33. There were multiple, additional confrontations between Orosco and Genis, with Orosco complaining to Genis about how he ran Durfee Elementary School, and objecting to specific political and protected activity concerns, amongst other issues, including parent and teacher involvement in the school community. These concerns never appeared in Mr. Genis' or any other administrators' evaluations.

PRINCIPAL DAVID SERMENO WAS TERMINATED FROM EMPLOYMENT AS POLITICAL RETRIBUTION FOR TOLERATING PROTECTED ACTIVITY AT HIS SCHOOL SITE

34. David Sermeno was Principal of Rivera Elementary School within ERUSD and was relieved from duty by the Board of Education. He resigned in June 2019 to avoid demotion.
35. Orosco chastised Sermeno by email dated April 18, 2019. The gravamen of Orosco's complaint is that during a school site visitation, he and Board Clerk Ibarra were approached by an ERFT bargaining team member about a District policy while at Sermeno's school site.

FORMER SUPERINTENDENT AGUILERA-FORT ADMITTED THAT SERMENO ALLOWING PROTECTED ACTIVITIES ON HIS SCHOOL SITE WAS THE REASON LARA AND OROSCO WERE TARGETING HIM

36. On April 18, 2019, Sermeno was approached by Superintendent Aguilera-Fort concerning the use of classrooms for parent meetings. Parents and teachers traditionally have used the District school sites for joint meetings to discuss matters of educational concern, a practice that Board President Lara and Vice President Orosco wanted to prohibit.
37. Superintendent Aguilera-Fort told Sermeno that these parent meetings required approval and indicated that the Board of Education was watching. On this point, Superintendent Aguilera-Fort told Sermeno, "Some things are out of my sphere of control."

PRINCIPAL VASQUEZ WAS TERMINATED FOR REFUSING TO VIOLATE DISTRICT POLICY AT THE SPECIFIC DEMAND OF BOARD VICE PRESIDENT OROSCO AND WITH THE KNOWLEDGE AND CONSENT OF BOARD PRESIDENT LARA

38. Hector Vasquez was Principal of El Rancho High School, and he was removed by action of the Board of Education at the end of last school year.
39. Vasquez was approached on multiple occasions by Orosco to discuss matters that were properly the job responsibilities of the Superintendent and did not fall under the purview of a member of the Board of Education. Vasquez felt intimidated and bullied into attending the meetings, but believed he had no choice.

40. Orosco ordered Vasquez to use his authority as principal to remove three members of the Pepster squad - in essence a combination of the song and yell leaders that attend sporting events - because they were "mean and bad" girls.
41. Hereafter, we reference a student within the District that Orosco, in his capacity as a Board of Education member, sought to secure preferential treatment for ("Student A"). The student is not named here for purposes of privacy and discretion.
42. Orosco's complaint was that these girls allegedly had been mean to Student A and he felt, as a Board Member, that these girls should not be allowed to be unkind to Student A. Vasquez informed Orosco that he could not remove students from the Pepster squad without due process.
43. Orosco regularly intervened with Vasquez, counselors at El Rancho High School and teachers to address Student A's academic record. Vasquez, and the high school staff that were involved, were uniformly intimidated by Orosco's intervention.
44. Orosco directed Vasquez to hire a different Pepster coach for a TOSA (Teacher on Special Assignment) position and as Pepster coach. Vasquez informed Orosco that the teacher would have to go through the normal application process.
45. There were additionally two other meetings that Orosco required Vasquez to attend so Orosco could instruct him concerning the direction of the high school. The meetings addressed topics and matters that were properly the job responsibilities of the Superintendent and did not fall under the purview of a member of the Board of Education
46. Orosco told Villon that he "owned him" Vasquez and that Orosco would go to Vasquez's office to scream at him -- apparently for the primary reason of getting preferential treatment for Student A. Villon was aware that Orosco was demanding that Vasquez and others alter protocols, bend rules or otherwise ignore Education Code requirements on Student A's behalf.
47. Orosco was motivated to retaliate against Vasquez because Vasquez resisted Orosco's demands for special treatment (and assisted other ERUSD employees

to do the same). Vasquez and other staff members were able to rebuff Orosco to some degree due to their union representation.

48. Vasquez was forced from employment by the District at the end of the 2018-2019 school year.

BOARD PRESIDENT LARA AND VICE PRESIDENT OROSCO ORDERED A PRINCIPAL TO CAUSE THE REMOVAL OF THE UNION REPRESENTATIVE AND OTHER TEACHERS AT HIS SCHOOL SITE

49. Based on information provided to ERASA on April 29, 2019, then-Board of Education Member, now-President Jose Lara encouraged Mr. Rosalio Medrano ("Medrano") to apply for the principal job at North Park Academy of the Arts.
50. In that conversation, Board Member Lara specifically informed Medrano that it was necessary to get rid of certain teachers, specifically ERFT representative and union lead negotiator Todd Zola and union member Pedro Canizales ("Zola" and "Canizales," respectively).
51. Medrano had previously taken part in an anti-union effort as principal of a charter school the United Teachers of Los Angeles were organizing. PERB issued a complaint in this issue in LA-CE-6025-E.
52. Medrano was hired by the Board of Education as principal of North Park Academy of the Arts in August 2017.
53. In 2017, Medrano was approached by then-Board of Education Member and now-Vice President of the Board of Education Orosco at an El Rancho High School football game where Medrano was assisting staff. Orosco asked Medrano how his work as principal was going, and Medrano responded that he was having some issues with teachers.
54. Orosco then specifically instructed Medrano to "get rid of" Zola and Canizales. He added a third name of teacher Natalie Valdiviez for targeting and removal from employment.
55. Within two months of the first meeting, Board of Education Member Orosco again visited North Park Academy of the Arts and instructed Medrano again to "get rid of" the three instructors identified herein.

56. Zola, Canizales, and Valdiviez have all independently confirmed that they were harassed, threatened with discipline, and otherwise inexplicably encouraged to avoid public and union activities by Medrano.
57. Medrano failed to effectively discipline or terminate these three instructors. For reasons unknown, Medrano was forced out of the District in January 2018.
58. Immediately preceding his termination, Medrano approached Canizales and apologized to him for targeting Canizales for termination. Medrano admitted that that Orosco and Lara had specifically required him to do so.
59. Canizales did not inform anyone of this conversation out of fear for his employment and, despite Medrano's request that Canizales apologize to Zola on his behalf, Canizales opted not to tell Zola or anyone else in an attempt to avoid further retaliation by now-Board of Education President Lara and Board of Education Vice President Orosco.

## **CONCLUSION & REMEDIES**

THEREFORE, ERASA respectfully requests that the Public Employment Relations Board issue an order declaring that the District has violated EERA's prohibition on discrimination for, or interference with, protected activity, domination of and interference with ERASA and its representational rights, as well as other protected activities. ERASA requests the same on behalf of the individuals harmed by the District's actions. It is further requested that the Public Employment Relations Board issue an order directing the District to take the following actions:

1. Cease and desist from interfering with ERASA as the exclusive representative;
2. Require the District to remove or rescind any discipline issued by the District or its agents based upon its unlawful efforts to impede ERASA as the exclusive representative;
3. Make restoration of the status quo ante for any impacted bargaining unit members due to the District's discrimination, interference and other illegal actions;
4. Order backpay and a make whole remedy for any impacted bargaining unit members;

5. Post a notice informing employees of the unfair practices committed by the District, as set forth above;
6. Provide any other relief deemed by PERB to be just and proper.